

**NORTH CENTRAL SOLID WASTE AUTHORITY
JOINT POWERS AGREEMENT**

November 27, 2002

THIS AGREEMENT is made and entered into this 27th day of November 2002 by and between the COUNTY OF RIO ARRIBA, hereinafter referred to as "Rio Arriba"; and the CITY OF ESPANOLA, hereinafter referred to as "Espanola"; and the SANTA CLARA PUEBLO, hereinafter referred to as "Santa Clara"; and the SAN JUAN PUEBLO, hereinafter referred to as "San Juan", and hereinafter collectively called the parties.

RECITALS

WHEREAS, this agreement is made under the authority of the "Joint Powers Agreement Act" Sections 11-1-1 et seq NMSA 1978 ("Joint Powers Act"), and the Solid Waste Act, Section 74-9-1 et seq NMSA 1978 ("Solid Waste Act"); and

WHEREAS, "Rio Arriba", and "Espanola", are legal subdivisions of the State of New Mexico ("the State") and "Santa Clara and San Juan Pueblos" are federally recognized Indian tribes and are defined as public agencies in the Joint Powers Act; and

WHEREAS, it is the desire of the parties to form a regional solid waste disposal authority in order to fully comply with the Solid Waste Act, to provide for disposition of solid waste and to provide for the general protection of the health, welfare and safety of the public and to provide staff, management assistance, planning and facilities therefor; and

WHEREAS, the governmental entities have agreed to deliver all solid waste, excluding recyclables, destined for solid waste disposal to the North Central Regional Solid Waste Authority; and

WHEREAS, the parties desire to establish an authority which is not a political subdivision of the state, such as would be established under Section 74-10-1 et al, NMSA, 1978; and

WHEREAS, it is in the best interests of the parties to enter into a Joint Powers Agreement for the

purpose of effectuating the rights and responsibilities between the parties, including, but not limited to the issuance of revenue bonds in the name of the North Central Solid Waste Authority for the purposes stated.

NOW THEREFORE, IT IS MUTUALLY AGREED AND COVENANTED BETWEEN THE PARTIES AS FOLLOWS:

1. NAME:

The solid waste management system being developed and operated pursuant to this agreement shall be known as the "NORTH CENTRAL SOLID WASTE AUTHORITY" (hereinafter referred to as the "Authority").

2. COMPOSITION AND GOVERNANCE OF THE AUTHORITY:

- A. Members & Terms: The Authority shall be governed by a board initially consisting of five members (hereinafter referred to as the "Board"). The governing body of each party shall appoint one board member. Each member shall serve for a period of two years, provided, however that any member of the Board may be replaced by action of the respective governing body at an official meeting.
- B. Alternates: In addition to the board members provided for in paragraph 2 (A) above, each party hereto shall also designate one alternate to the Authority in the same manner as the regular member was selected. In the absence of the regular board member, the alternate shall have the same powers and duties as the regular board member.
- C. Voting: Each Board member (except as provided herein) in good standing shall have one vote and cannot vote by proxy. A majority of the members of the Board shall constitute a quorum for the transaction of business. A majority vote of all the Board shall be required to take action.
 - 1. To be in good standing, a party must be up-to-date with its portion of any required financial commitments necessary to carry out the provisions of this agreement.
 - 2. Any party who is not in good standing may have a seat on the Board but shall not have a vote until that party's financial commitments are current.

All actions of the Authority shall be taken by a majority vote of the Board, at a regularly

scheduled meeting of the Authority. The Chairperson of the Board shall have a vote. In the event a member of the Board is absent, that member's alternate may vote.

- D. Meetings: The Authority shall meet at least once each month within the boundaries of the Authority at a site to be determined by the Board. All meetings of the Authority shall be conducted in accordance with the Open Meetings Act, Sections 10-15-1 et seq NMSA 1978. The Board shall adopt rules and regulations, which must comply with the statutes of the United States and the State of New Mexico.
- E. Compensation: The Authority shall compensate each board member or alternate for mileage and per diem in accordance with the "Per Diem and Mileage Act" Section 10-8-1 et seq NMSA 1978 for authorized business conducted on behalf of the Authority.
- F. Membership of the Authority: The initial members of the Authority will consist of Espanola, Rio Arriba County, San Juan Pueblo, and Santa Clara Pueblo. Other local governmental entities (municipalities, counties or Indian Tribes) may join the Authority at any time by approval of a majority of the existing members and under the terms and any conditions, financial or otherwise, set by the Board, provided that a minimum of 60 days notice is given to the members, prior to a vote on any application for membership. A new member shall be entitled to have one representative on the board and shall have all of the same rights and responsibilities as the existing members. Nothing herein shall be construed to prohibit the Authority from accepting solid waste from other entities on a scheduled fee basis, without that entity becoming a member of the Authority.
- G. The rights set forth in this Agreement are additional to the rights enjoyed by the political subdivisions and sovereign entities, who are parties to this Agreement and nothing in this Agreement shall be construed to infringe upon, limit or abridge the rights of the political subdivisions and sovereign entities.

3. POWERS AND DUTIES OF THE AUTHORITY:

The Authority is authorized to exercise the following powers and duties as necessary to carry out the operations of a regional landfill.

- A. To develop and implement a plan to acquire, construct, operate and finance an integrated solid waste management system for the parties; and

- B. To acquire, or cause to be acquired, and to operate and maintain the necessary property, equipment and personnel for the integrated solid waste management system; and
- C. To obtain financing for the fulfillment of its purposes in such amounts as the Board may determine, subject to reasonably anticipated revenues of the Authority, in such manner and by such procedures as may be permitted by applicable law; and
- D. To issue revenue bonds and enter into agreements with the New Mexico Finance Authority and to pledge the net operating revenues of the Authority to the repayment of revenue bonds and loans from the New Mexico Finance Authority.
- E. To apply to appropriate state and/or federal agencies for financial assistance for the fulfillment of the Authority's purposes; and
- F. To select and/or enter into agreements for the services of personnel appropriate and necessary for the operation of the integrated solid waste management system; and
- G. To hire an Authority Manager, whose responsibility will be to oversee the day to day operations of the Authority, and to employ and pay such personnel as the Authority deems necessary for the proper administration, operation and maintenance of the authority; and
- H. To prepare all necessary personnel rules and regulations consistent with State law; and
- I. To provide for proper development, management, distribution and accounting of funds acquired for the development and operation of an integrated solid waste management system; and
- J. To cause to be created plans, specifications and bidding documents for various developments and operations, projects and phases, to advertise and open bids for purchases of equipment and construction of facilities and to award construction contracts pursuant to the "Procurement Code" Section 13-1-1 et seq and 13-4-1 et seq NMSA 1978; and
- K. To provide for the proper supervision, construction and management of the integrated solid waste management system and to secure appropriate warranties for bonds to ensure contract compliance and quality guarantees; and
- L. On or before June 30 of each year, to prepare and submit for approval an annual budget, to the Department of Finance and Administration of the State of New Mexico, on a fiscal year basis commencing July 1 of each year; and
- M. To adopt a policy regarding fees, rates and charges for use of the integrated solid waste management system necessary for the adequate financial operation of the Authority; and

- N. To Negotiate and execute any and all agreements for and on behalf of the Authority necessary to carry out the approved policies as called for and provided herein, and any further agreements which may be necessary with; and
- O. To provide for the proper receipt of and disbursement of the funds of the Authority for its administration, maintenance and operation as provided by the Authority budget; and
- P. To require that the functions of this Authority and the administration of the integrated solid waste management system be at all times in accordance with all applicable federal, state, tribal and local laws and regulations; specifically, that said Authority is managed and operated in accordance with the statutes and regulations administered by the New Mexico Environment Department; and
- Q. To carry out such other duties and programs as the respective governing bodies may from time to time request from the Authority consistent with its purposes as set forth herein subject to the approval from the parties; and
- R. To advocate, lobby or petition the New Mexico State Legislature on proposed legislation, which may impact solid waste management issues.

4. BUDGET:

The Authority shall each year prior to the last day of March, prepare a budget for Authority finances for the ensuing fiscal year, said fiscal year to run from the 1st day of July of each year, to the 30th day of June of the following year. The budget shall show in detail, the revenue and expenses from the preceding year and in detail, the anticipated revenue and expenses for the succeeding year. The Authority budget shall take effect upon approval by the Board and the Department of Finance and Administration. The expenditures allowed in such approved budget shall control the year's spending program for the Authority. All spending shall be done in accordance with State law pertaining to the disbursement of public funds.

5. FINANCES:

The Authority shall be primarily funded by the revenues generated from user fees.

- A. The Authority is a legal entity separate and distinct from the parties capable of acting on its own behalf and is liable for its own actions and obligations. Liability of the Authority shall not be deemed the liabilities of the parties, either separately or collectively. The Authority

shall be solely responsible for debts incurred by it for its own programs and purposes, and it shall have no authority to obligate any of the parties individually for any guarantee for satisfaction of its debts, except to the extent that the parties, or any of them, have voluntarily by affirmative action in compliance with applicable law agreed to satisfy or guarantee any such debt; and no member shall be required to make any contribution towards capital or operating expenses of the Authority unless all members also expressly agree to make equal contributions including irrevocably pledging the members' environmental gross receipts tax revenues (or equivalent) to the repayment of revenue bonds or loans from the New Mexico Finance Authority.

- B. The Authority may receive funds through revenue bonds, federal and/or state loans or grants, collection and tipping fees and such other revenues as may, from time to time, be identified by the Authority.
- C. The Authority is hereby designated as the operational manager of the solid waste disposal system and, as such, shall be responsible for any deficits incurred in the operation of the integrated solid waste management system in compliance with the applicable New Mexico Statutes and generally accepted accounting principles.
- D. The Authority shall establish rates and fees for the services it provides sufficient to cover the costs of retiring revenue bonds or loans, reasonable operation and maintenance expenses, including administrative overhead, establishment and maintenance of a reserve for the replacement of capital improvements and future expansion, and such other costs as the Board reasonable identifies as components of an integrated solid waste management system. Under no circumstances shall the Board establish rates with the intention of generating any profit for members of the Authority.
- E. The parties agree that they shall not be obligated or incur any liability for the payment of deficits incurred by the Authority. Anticipated deficits should be identified and included in the annual budget of the Authority. The Authority shall take the necessary corrective action needed to eliminate any deficit or anticipated deficit in the year they are incurred.
- F. It is the intent of the parties that the Authority become self-sufficient and that no party be required to contribute funds from its respective budget or taxing authority other than the start-up costs. The members may irrevocably pledge the revenues derived from their environmental services gross receipts tax (or equivalent) to the repayment of revenue bonds

or loans from the New Mexico Finance Authority in addition to the Authority's pledge of the net operating revenues. Any environmental services gross receipts tax revenues (or equivalent) used to repay revenue bonds or loans from the New Mexico Finance Authority will be reimbursed by the North Central Solid Waste Authority to the member entity from net operating revenues available after debt service payments.

6. FISCAL AGENT:

- A. The Authority Board is the board of finance of the Authority and the members of the board shall serve without compensation other than the compensation authorized by paragraph 2 (E) of this agreement.
- B. The Board shall control the finances of the Authority; appropriate money for Authority purposes only; and provide for the payment of debts and expenses of the Authority.
- C. The Authority Manager shall carry out all rules and regulations established by the Authority; employ and discharge, subject to the approval of the Board, all persons engaged in the administration and operation of the Authority; prepare and submit an annual budget; and make recommendations to the Board on all matters concerning the welfare of the Authority.
- D. The Authority Manager shall be the finance officer for the Authority unless another officer is directed by the Board to be the finance officer. The Authority Manager shall receive all money belonging to the Authority; keep his accounts and records in accordance with generally accepted accounting principles; keep the money of the Authority separate from any other money in his possession; expend the money only as directed by the Board; supervise the depositing and safekeeping of all money belonging to the Authority; with the advice and consent of the Board, designate banks qualified to receive on deposit money entrusted to his care; submit monthly (or as required by the Board) reports showing the receipts, expenditures and balances for the Authority; submit quarterly reports to each member; prepare an annual financial report at the end of each fiscal year showing the receipts, expenditures and balances for each fund.
- E. No payment of funds shall be made except upon a warrant (check) of the Authority. A warrant shall be signed by the Chairperson or his/her authorized representative, and countersigned by the Authority Manager or as prescribed by the Uniform Facsimile

Signature of Public Officials Act (Sections 6-9-1 et seq NMSA 1978. A warrant shall state the account number which the warrant is chargeable, warrant number, date it was issued, amount of the warrant and the name of the person to whom the warrant is payable. For the purpose of financing the necessary expenditures in carrying out the provisions of this Agreement, the Authority Managers Office shall have appropriate bank accounts to distinguish various solid waste funds and to comply with federal, state and local requirements, policies and law.

- F. The Authority Manager shall receive and disburse all funds secured by the Authority as required by law to insure proper and adequate accounting records in accordance with all rules and regulations promulgated by the Department of Finance and Administration and generally accepted accounting principles.
- G. No disbursements shall be made from any account in which the Authority maintains its funds unless proper vouchers have been prepared and supporting documentation is attached, and the payments have been approved by the Authority. The Authority Manager shall require an annual audit of all funds.
- H. Upon dissolution of the Authority, any property shall be disposed of according to law in the method in which those properties were obtained and any surplus funds remaining available to the Authority shall be returned to the various local governments in proportion to the contributions made by each entity during the period of the agreement.
- I. The records of the Authority shall be open to inspection by any citizen during the regular business hours of the Authority pursuant to the Inspection of Public Records Act Sections 14-2-1 et seq NMSA 1978.
- J. Any employee of the Authority who handles cash for the Authority shall be covered by a surety bond obtained through the Authority in such amount as determined by the Authority.

7. LIABILITY:

The parties to this agreement understand that they shall be responsible for all costs and any liability issues (including closure and post-closure costs) stemming from their respective existing landfills and as such, hold the Authority harmless from such costs and all liability

8. REPORTING REQUIREMENTS:

The Authority shall make a quarterly written report of its activities to its members and to the Local Government Division of DFA.

9. STATUTORY AUTHORITY, CONSTRUCTION AND COMPLIANCE:

The North Central Solid Waste Authority is authorized under this Agreement pursuant to Sections 11-1-1 et seq NMSA 1978. This Agreement is governed by and shall be construed in accordance with the Laws of the State of New Mexico.

10. USE OF TRIBAL LAND FOR SOLID WASTE FACILITY:

Nothing in the Joint Powers Agreement shall be interpreted as authorizing the siting of a solid waste facility on tribal lands without the express approval of the Tribal Council and the Secretary of the Interior.

11. SOVEREIGN IMMUNITY:

Nothing in the Joint Powers Agreement shall be interpreted as authorizing, or as a consent by any Pueblo to, the extension of state jurisdiction or law over tribal lands or as a waiver of the sovereign immunity of the Pueblo, except that in the event any dispute or controversy arises under the terms of this agreement, between a Pueblo that is a member of the Authority and the Authority or any other member thereof, and the Pueblo refuses to agree to submit the matter to arbitration as provided in Section 12 hereof, such Pueblo shall be deemed to have waived its sovereign immunity from suit for injunctive relief to compel arbitration of the matter in dispute in a court of competent jurisdiction. Each Pueblo member of the Authority further waives its sovereign immunity from suit to enforce the decision of any arbitration proceeding under the provisions of Section 12 hereof involving such Pueblo, in a court of competent jurisdiction, should the Pueblo fail or refuse, after written demand is made upon it, to comply with the arbitration decision, but in such event the Pueblo's waiver of sovereign immunity shall be strictly limited to injunctive relief to compel compliance with the decision of the arbitrators, and shall not extend to any judgement of damages or costs against the Pueblo of whatsoever kind other than costs of the arbitration as provided in Section 12(B)(3) of this Agreement.

For Purposes of this Section, a court of competent jurisdiction shall include the tribal court of the Pueblo, and may include the United States District Court for the District of New Mexico if

jurisdiction otherwise lies in such court. In the event the only court of competent jurisdiction as to any suit brought against a Pueblo member under the provisions of this Section is the Pueblo's court, moreover, the Pueblo agrees that for the purpose of hearing and deciding any such matter, its tribal council shall appoint as judge pro tempore to here such matter a person who is an active member of the bar and who has not previously had any professional relationship with the Pueblo. Such judge pro tempore shall have all of the power and authority of any other judge of the Pueblo's tribal court, and the decision of such judge pro tempore shall be fully binding and enforceable against the Pueblo, the same as any other decision of the tribal court.

In the event a Pueblo member fails to honor its waiver of sovereign immunity as set forth herein, or otherwise effectively prevents the Authority or any member thereof from having an effective remedy in the event of a bona fide dispute with such Pueblo arising from the terms of this Agreement, the Authority may, by a unanimous vote of its remaining members, eject the Pueblo from membership in the Authority, and exclude it from any services or benefits provided thereby.

12. ARBITRATION:

A. Matters to be submitted to Arbitration. All disputes and controversies of every kind and nature between the parties to this agreement as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this agreement shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure

1. Either party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter of controversy.
2. Within 20 days after such demand, the other party shall name its arbitrator, or in default of such naming, such arbitrator shall be named by the American Arbitration

Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within 30 days of the request therefor, the appointment shall be made by the American Arbitration Association.

3. The Arbitration costs and expenses of each party shall be borne by that party and all arbitrators' fees and other expenses shall be borne equally by both parties.
4. The arbitration hearing shall be held at such time and place as designated by the arbitrators on at least 20 days' written notice to the parties.
5. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto shall agree to be bound by such award.
6. As to any procedures regarding the conduct of the arbitration that are not specified either in this agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration Rules of the American Arbitration Association.

C. Arbitration as bar to suit

1. The parties stipulate that the arbitration provisions of this agreement shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this agreement and which is arbitrable as set forth in this agreement.
2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this agreement.

D. Lack of Arbitrators' authority to modify agreement. Nothing contained in this agreement shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this agreement.

E. Enforcement. Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this agreement and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in this agreement at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act. This agreement is not subject to enforcement under the Uniform Arbitration Act, Section 44-7-1 through 44-7-22 NMSA 1978 or the Federal Arbitration Act, 9 U.S.C. et seq.

13. TERM OF THE AGREEMENT, AMENDMENT, TERMINATION AND WITHDRAWAL:

The term of this Agreement shall be indefinite. Any amendments or revisions to this agreement must be approved by all members at the time that such amendments or revisions are proposed. Any amendments or revisions to this Agreement shall be subject to DFA approval. So long as the Authority has no outstanding revenue bonds or loans, this Agreement may be terminated by sending a notice to the respective governing bodies ninety (90) days in advance of the meeting date where the Board will take action on terminating this Agreement. The notice shall state the date, time and place of the meeting. Any party may voluntarily withdraw from the Agreement after giving one (1) year's notice of its decision to withdraw. Any withdrawal or termination of the Agreement by a member shall not affect the obligations, financial or otherwise, incurred by such party prior to the date of the notice of withdrawal including any pledge of environmental services gross receipts tax revenues (or equivalent) to the repayment of outstanding revenue bonds or loans from the New Mexico Finance Authority.

14. EFFECTIVE DATE:

This agreement shall become effective upon execution of this Agreement by all parties and approval by the Department of Finance and Administration of the State of New Mexico.

DATED THIS 27th DAY OF November 2002

RIO ARRIBA COUNTY

Angel Montoya
Commission Chairman

CITY OF ESPANOLA

Richard L. Lugo
Mayor

SANTA CLARA PUEBLO

Henry Gutierrez
Governor

SAN JUAN PUEBLO

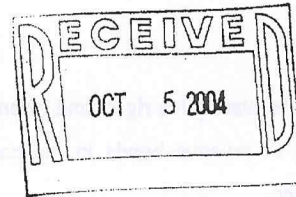
Hon. Gov. Peter Cota
Governor

APPROVED:

DEPT. OF FINANCE & ADMINISTRATION

SECRETARY OF DFA

Dannette K. Burch 10/8/04
DATE JA 10/8/04



**NORTH CENTRAL SOLID WASTE AUTHORITY
JOINT POWERS AGREEMENT**

November 27, 2002

THIS AGREEMENT is made and entered into this 27th day of November 2002 by and between the COUNTY OF RIO ARRIBA, hereinafter referred to as "Rio Arriba"; and the CITY OF ESPANOLA, hereinafter referred to as "Espanola"; and the SANTA CLARA PUEBLO, hereinafter referred to as "Santa Clara"; and the SAN JUAN PUEBLO, hereinafter referred to as "San Juan", and hereinafter collectively called the parties.

RECITALS

WHEREAS, this agreement is made under the authority of the "Joint Powers Agreement Act" Sections 11-1-1 et seq NMSA 1978 ("Joint Powers Act"), and the Solid Waste Act, Section 74-9-1 et seq NMSA 1978 ("Solid Waste Act"); and

WHEREAS, "Rio Arriba", and "Espanola", are legal subdivisions of the State of New Mexico ("the State") and "Santa Clara and San Juan Pueblos" are federally recognized Indian tribes and are defined as public agencies in the Joint Powers Act; and

WHEREAS, it is the desire of the parties to form a regional solid waste disposal authority in order to fully comply with the Solid Waste Act, to provide for disposition of solid waste and to provide for the general protection of the health, welfare and safety of the public and to provide staff, management assistance, planning and facilities therefor; and

WHEREAS, the governmental entities have agreed to deliver all solid waste, excluding recyclables, destined for solid waste disposal to the North Central Regional Solid Waste Authority; and

WHEREAS, the parties desire to establish an authority which is not a political subdivision of the state, such as would be established under Section 74-10-1 et al, NMSA, 1978; and

WHEREAS, it is in the best interests of the parties to enter into a Joint Powers Agreement for the

RIO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
1 of 14
10/04/2006 03:37:40 PM
BY DFLORA

purpose of effectuating the rights and responsibilities between the parties, including, but not limited to the issuance of revenue bonds in the name of the North Central Solid Waste Authority for the purposes stated.

NOW THEREFORE, IT IS MUTUALLY AGREED AND COVENANTED BETWEEN THE PARTIES AS FOLLOWS:

1. NAME:

The solid waste management system being developed and operated pursuant to this agreement shall be known as the "NORTH CENTRAL SOLID WASTE AUTHORITY" (hereinafter referred to as the "Authority").

2. COMPOSITION AND GOVERNANCE OF THE AUTHORITY:

A. Members & Terms: The Authority shall be governed by a board initially consisting of five members (hereinafter referred to as the "Board"). The governing body of each party shall appoint one board member. Each member shall serve for a period of two years, provided, however that any member of the Board may be replaced by action of the respective governing body at an official meeting.

B. Alternates: In addition to the board members provided for in paragraph 2 (A) above, each party hereto shall also designate one alternate to the Authority in the same manner as the regular member was selected. In the absence of the regular board member, the alternate shall have the same powers and duties as the regular board member.

C. Voting: Each Board member (except as provided herein) in good standing shall have one vote and cannot vote by proxy. A majority of the members of the Board shall constitute a quorum for the transaction of business. A majority vote of all the Board shall be required to take action.

1. To be in good standing, a party must be up-to-date with its portion of any required financial commitments necessary to carry out the provisions of this agreement.

2. Any party who is not in good standing may have a seat on the Board but shall not have a vote until that party's financial commitments are current.

All actions of the Authority shall be taken by a majority vote of the Board, at a regularly

scheduled meeting of the Authority. The Chairperson of the Board shall have a vote. In the event a member of the Board is absent, that member's alternate may vote.

D. Meetings: The Authority shall meet at least once each month within the boundaries of the Authority at a site to be determined by the Board. All meetings of the Authority shall be conducted in accordance with the Open Meetings Act, Sections 10-15-1 et seq NMSA 1978. The Board shall adopt rules and regulations, which must comply with the statutes of the United States and the State of New Mexico.

E. Compensation: The Authority shall compensate each board member or alternate for mileage and per diem in accordance with the "Per Diem and Mileage Act" Section 10-8-1 et seq NMSA 1978 for authorized business conducted on behalf of the Authority.

F. Membership of the Authority: The initial members of the Authority will consist of Espanola, Rio Arriba County, San Juan Pueblo, and Santa Clara Pueblo. Other local governmental entities (municipalities, counties or Indian Tribes) may join the Authority at any time by approval of a majority of the existing members and under the terms and any conditions, financial or otherwise, set by the Board, provided that a minimum of 60 days notice is given to the members, prior to a vote on any application for membership. A new member shall be entitled to have one representative on the board and shall have all of the same rights and responsibilities as the existing members. Nothing herein shall be construed to prohibit the Authority from accepting solid waste from other entities on a scheduled fee basis, without that entity becoming a member of the Authority.

G. The rights set forth in this Agreement are additional to the rights enjoyed by the political subdivisions and sovereign entities, who are parties to this Agreement and nothing in this Agreement shall be construed to infringe upon, limit or abridge the rights of the political subdivisions and sovereign entities.

3. POWERS AND DUTIES OF THE AUTHORITY:

The Authority is authorized to exercise the following powers and duties as necessary to carry out the operations of a regional landfill.

A. To develop and implement a plan to acquire, construct, operate and finance an integrated solid waste management system for the parties; and

RIO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
3 of 14
10/04/2006 03:37:40 PM
BY DELORA

- B. To acquire, or cause to be acquired, and to operate and maintain the necessary property, equipment and personnel for the integrated solid waste management system; and
- C. To obtain financing for the fulfillment of its purposes in such amounts as the Board may determine, subject to reasonably anticipated revenues of the Authority, in such manner and by such procedures as may be permitted by applicable law; and
- D. To issue revenue bonds and enter into agreements with the New Mexico Finance Authority and to pledge the net operating revenues of the Authority to the repayment of revenue bonds and loans from the New Mexico Finance Authority.
- E. To apply to appropriate state and/or federal agencies for financial assistance for the fulfillment of the Authority's purposes; and
- F. To select and/or enter into agreements for the services of personnel appropriate and necessary for the operation of the integrated solid waste management system; and
- G. To hire an Authority Manager, whose responsibility will be to oversee the day to day operations of the Authority, and to employ and pay such personnel as the Authority deems necessary for the proper administration, operation and maintenance of the authority; and
- H. To prepare all necessary personnel rules and regulations consistent with State law; and
- I. To provide for proper development, management, distribution and accounting of funds acquired for the development and operation of an integrated solid waste management system; and
- J. To cause to be created plans, specifications and bidding documents for various developments and operations, projects and phases, to advertise and open bids for purchases of equipment and construction of facilities and to award construction contracts pursuant to the "Procurement Code" Section 13-1-1 et seq and 13-4-1 et seq NMSA 1978; and
- K. To provide for the proper supervision, construction and management of the integrated solid waste management system and to secure appropriate warranties for bonds to ensure contract compliance and quality guarantees; and
- L. On or before June 30 of each year, to prepare and submit for approval an annual budget, to the Department of Finance and Administration of the State of New Mexico, on a fiscal year basis commencing July 1 of each year; and
- M. To adopt a policy regarding fees, rates and charges for use of the integrated solid waste management system necessary for the adequate financial operation of the Authority; and

- N. To Negotiate and execute any and all agreements for and on behalf of the Authority necessary to carry out the approved policies as called for and provided herein, and any further agreements which may be necessary with; and
- O. To provide for the proper receipt of and disbursement of the funds of the Authority for its administration, maintenance and operation as provided by the Authority budget; and
- P. To require that the functions of this Authority and the administration of the integrated solid waste management system be at all times in accordance with all applicable federal, state, tribal and local laws and regulations; specifically, that said Authority is managed and operated in accordance with the statutes and regulations administered by the New Mexico Environment Department; and
- Q. To carry out such other duties and programs as the respective governing bodies may from time to time request from the Authority consistent with its purposes as set forth herein subject to the approval from the parties; and
- R. To advocate, lobby or petition the New Mexico State Legislature on proposed legislation, which may impact solid waste management issues.

4. BUDGET:

The Authority shall each year prior to the last day of March, prepare a budget for Authority finances for the ensuing fiscal year, said fiscal year to run from the 1st day of July of each year, to the 30th day of June of the following year. The budget shall show in detail, the revenue and expenses from the preceding year and in detail, the anticipated revenue and expenses for the succeeding year. The Authority budget shall take effect upon approval by the Board and the Department of Finance and Administration. The expenditures allowed in such approved budget shall control the year's spending program for the Authority. All spending shall be done in accordance with State law pertaining to the disbursement of public funds.

5. FINANCES:

The Authority shall be primarily funded by the revenues generated from user fees.

- A. The Authority is a legal entity separate and distinct from the parties capable of acting on its own behalf and is liable for its own actions and obligations. Liability of the Authority shall not be deemed the liabilities of the parties, either separately or collectively. The Authority

5

RIO ARriba
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
5 of 14
10/04/2006 03:37:40 PM
BY DELORA

- shall be solely responsible for debts incurred by it for its own programs and purposes, and it shall have no authority to obligate any of the parties individually for any guarantee for satisfaction of its debts, except to the extent that the parties, or any of them, have voluntarily by affirmative action in compliance with applicable law agreed to satisfy or guarantee any such debt; and no member shall be required to make any contribution towards capital or operating expenses of the Authority unless all members also expressly agree to make equal contributions including irrevocably pledging the members' environmental gross receipts tax revenues (or equivalent) to the repayment of revenue bonds or loans from the New Mexico Finance Authority.
- B. The Authority may receive funds through revenue bonds, federal and/or state loans or grants, collection and tipping fees and such other revenues as may, from time to time, be identified by the Authority.
- C. The Authority is hereby designated as the operational manager of the solid waste disposal system and, as such, shall be responsible for any deficits incurred in the operation of the integrated solid waste management system in compliance with the applicable New Mexico Statutes and generally accepted accounting principles.
- D. The Authority shall establish rates and fees for the services it provides sufficient to cover the costs of retiring revenue bonds or loans, reasonable operation and maintenance expenses, including administrative overhead, establishment and maintenance of a reserve for the replacement of capital improvements and future expansion, and such other costs as the Board reasonable identifies as components of an integrated solid waste management system. Under no circumstances shall the Board establish rates with the intention of generating any profit for members of the Authority.
- E. The parties agree that they shall not be obligated or incur any liability for the payment of deficits incurred by the Authority. Anticipated deficits should be identified and included in the annual budget of the Authority. The Authority shall take the necessary corrective action needed to eliminate any deficit or anticipated deficit in the year they are incurred.
- F. It is the intent of the parties that the Authority become self-sufficient and that no party be required to contribute funds from its respective budget or taxing authority other than the start-up costs. The members may irrevocably pledge the revenues derived from their environmental services gross receipts tax (or equivalent) to the repayment of revenue bonds

or loans from the New Mexico Finance Authority in addition to the Authority's pledge of the net operating revenues. Any environmental services gross receipts tax revenues (or equivalent) used to repay revenue bonds or loans from the New Mexico Finance Authority will be reimbursed by the North Central Solid Waste Authority to the member entity from net operating revenues available after debt service payments.

6. FISCAL AGENT:

- A. The Authority Board is the board of finance of the Authority and the members of the board shall serve without compensation other than the compensation authorized by paragraph 2 (E) of this agreement.
- B. The Board shall control the finances of the Authority; appropriate money for Authority purposes only; and provide for the payment of debts and expenses of the Authority.
- C. The Authority Manager shall carry out all rules and regulations established by the Authority; employ and discharge, subject to the approval of the Board, all persons engaged in the administration and operation of the Authority; prepare and submit an annual budget; and make recommendations to the Board on all matters concerning the welfare of the Authority.
- D. The Authority Manager shall be the finance officer for the Authority unless another officer is directed by the Board to be the finance officer. The Authority Manager shall receive all money belonging to the Authority; keep his accounts and records in accordance with generally accepted accounting principles; keep the money of the Authority separate from any other money in his possession; expend the money only as directed by the Board; supervise the depositing and safekeeping of all money belonging to the Authority; with the advice and consent of the Board, designate banks qualified to receive on deposit money entrusted to his care; submit monthly (or as required by the Board) reports showing the receipts, expenditures and balances for the Authority; submit quarterly reports to each member; prepare an annual financial report at the end of each fiscal year showing the receipts, expenditures and balances for each fund.

- E. No payment of funds shall be made except upon a warrant (check) of the Authority. A warrant shall be signed by the Chairperson or his/her authorized representative, and countersigned by the Authority Manager or as prescribed by the Uniform Facsimile

RIO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
7 of 14
10/04/2006 03:37:40 PM
BY INT/ROB

Signature of Public Officials Act (Sections 6-9-1 et seq NMSA 1978. A warrant shall state the account number which the warrant is chargeable, warrant number, date it was issued, amount of the warrant and the name of the person to whom the warrant is payable. For the purpose of financing the necessary expenditures in carrying out the provisions of this Agreement, the Authority Managers Office shall have appropriate bank accounts to distinguish various solid waste funds and to comply with federal, state and local requirements, policies and law.

F. The Authority Manager shall receive and disburse all funds secured by the Authority as required by law to insure proper and adequate accounting records in accordance with all rules and regulations promulgated by the Department of Finance and Administration and generally accepted accounting principles.

G. No disbursements shall be made from any account in which the Authority maintains its funds unless proper vouchers have been prepared and supporting documentation is attached, and the payments have been approved by the Authority. The Authority Manager shall require an annual audit of all funds.

H. Upon dissolution of the Authority, any property shall be disposed of according to law in the method in which those properties were obtained and any surplus funds remaining available to the Authority shall be returned to the various local governments in proportion to the contributions made by each entity during the period of the agreement.

I. The records of the Authority shall be open to inspection by any citizen during the regular business hours of the Authority pursuant to the Inspection of Public Records Act Sections 14-2-1 et seq NMSA 1978.

J. Any employee of the Authority who handles cash for the Authority shall be covered by a surety bond obtained through the Authority in such amount as determined by the Authority.

7. LIABILITY:

The parties to this agreement understand that they shall be responsible for all costs and any liability issues (including closure and post-closure costs) stemming from their respective existing landfills and as such, hold the Authority harmless from such costs and all liability

8. REPORTING REQUIREMENTS:

RIO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
8 of 14
10/04/2006 03:37:40 PM
BY DEJORA

The Authority shall make a quarterly written report of its activities to its members and to the Local Government Division of DFA.

9. STATUTORY AUTHORITY, CONSTRUCTION AND COMPLIANCE:

The North Central Solid Waste Authority is authorized under this Agreement pursuant to Sections 11-1-1-1 et seq NMSA 1978. This Agreement is governed by and shall be construed in accordance with the Laws of the State of New Mexico.

10. USE OF TRIBAL LAND FOR SOLID WASTE FACILITY:

Nothing in the Joint Powers Agreement shall be interpreted as authorizing the siting of a solid waste facility on tribal lands without the express approval of the Tribal Council and the Secretary of the Interior.

11. SOVEREIGN IMMUNITY:

Nothing in the Joint Powers Agreement shall be interpreted as authorizing, or as a consent by any Pueblo to, the extension of state jurisdiction or law over tribal lands or as a waiver of the sovereign immunity of the Pueblo, except that in the event any dispute or controversy arises under the terms of this agreement, between a Pueblo that is a member of the Authority and the Authority or any other member thereof, and the Pueblo refuses to agree to submit the matter to arbitration as provided in Section 12 hereof, such Pueblo shall be deemed to have waived its sovereign immunity from suit for injunctive relief to compel arbitration of the matter in dispute in a court of competent jurisdiction. Each Pueblo member of the Authority further waives its sovereign immunity from suit to enforce the decision of any arbitration proceeding under the provisions of Section 12 hereof involving such Pueblo, in a court of competent jurisdiction, should the Pueblo fail or refuse, after written demand is made upon it, to comply with the arbitration decision, but in such event the Pueblo's waiver of sovereign immunity shall be strictly limited to injunctive relief to compel compliance with the decision of the arbitrators, and shall not extend to any judgement of damages or costs against the Pueblo of whatsoever kind other than costs of the arbitration as provided in Section 12(B)(3) of this Agreement.

For Purposes of this Section, a court of competent jurisdiction shall include the tribal court of the Pueblo, and may include the United States District Court for the District of New Mexico if

9
RIO ARRIEA
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
9 of 14
10/04/2006 03:37:40 PM

jurisdiction otherwise lies in such court. In the event the only court of competent jurisdiction as to any suit brought against a Pueblo member under the provisions of this Section is the Pueblo's court, moreover, the Pueblo agrees that for the purpose of hearing and deciding any such matter, its tribal council shall appoint as judge pro tempore to here such matter a person who is an active member of the bar and who has not previously had any professional relationship with the Pueblo. Such judge pro tempore shall have all of the power and authority of any other judge of the Pueblo's tribal court, and the decision of such judge pro tempore shall be fully binding and enforceable against the Pueblo, the same as any other decision of the tribal court.

In the event a Pueblo member fails to honor its waiver of sovereign immunity as set forth herein, or otherwise effectively prevents the Authority or any member thereof from having an effective remedy in the event of a bona fide dispute with such Pueblo arising from the terms of this Agreement, the Authority may, by a unanimous vote of its remaining members, eject the Pueblo from membership in the Authority, and exclude it from any services or benefits provided thereby.

12. ARBITRATION:

A. Matters to be submitted to Arbitration. All disputes and controversies of every kind and nature between the parties to this agreement as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this agreement shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure

1. Either party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter of controversy.
2. Within 20 days after such demand, the other party shall name its arbitrator, or in default of such naming, such arbitrator shall be named by the American Arbitration

RIO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
10 OF 14
10/04/2006 03:37:40 PM
BY DELORA

Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within 30 days of the request therefor, the appointment shall be made by the American Arbitration Association.

3. The Arbitration costs and expenses of each party shall be borne by that party and all arbitrators' fees and other expenses shall be borne equally by both parties.
4. The arbitration hearing shall be held at such time and place as designated by the arbitrators on at least 20 days' written notice to the parties.
5. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto shall agree to be bound by such award.
6. As to any procedures regarding the conduct of the arbitration that are not specified either in this agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration Rules of the American Arbitration Association.

C. Arbitration as bar to suit

1. The parties stipulate that the arbitration provisions of this agreement shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this agreement and which is arbitrable as set forth in this agreement.
2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this agreement.

D. Lack of Arbitrators' authority to modify agreement. Nothing contained in this

agreement shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this agreement.

E. Enforcement. Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this agreement and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in this agreement at the sole discretion of that party.

F. Nonapplicibility of Uniform Arbitration Act. This agreement is not subject to enforcement under the Uniform Arbitration Act, Section 44-7-1 through 44-7-22 NMSA 1978 or the Federal Arbitration Act, 9 U.S.C. et seq.

13. TERM OF THE AGREEMENT, AMENDMENT, TERMINATION AND WITHDRAWAL:

The term of this Agreement shall be indefinite. Any amendments or revisions to this agreement must be approved by all members at the time that such amendments or revisions are proposed. Any amendments or revisions to this Agreement shall be subject to DFA approval. So long as the Authority has no outstanding revenue bonds or loans, this Agreement may be terminated by sending a notice to the respective governing bodies ninety (90) days in advance of the meeting date where the Board will take action on terminating this Agreement. The notice shall state the date, time and place of the meeting. Any party may voluntarily withdraw from the Agreement after giving one (1) year's notice of its decision to withdraw. Any withdrawal or termination of the Agreement by a member shall not affect the obligations, financial or otherwise, incurred by such party prior to the date of the notice of withdrawal including any pledge of environmental services gross receipts tax revenues (or equivalent) to the repayment of outstanding revenue bonds or loans from the New Mexico Finance Authority.

14. EFFECTIVE DATE:

This agreement shall become effective upon execution of this Agreement by all parties and approval by the Department of Finance and Administration of the State of New Mexico.

12
RTO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849 7849
Book 529 Page
12 of 14
10/04/2006 03:37:40 PM
BY DELORA

DATED THIS 27th DAY OF November 2002

RIO ARRIBA COUNTY

Agueda Montoya
Commission Chairman

CITY OF ESPANOLA

Robert Garcia
Mayor

SANTA CLARA PUEBLO

Deming Martinez
Governor

SAN JUAN PUEBLO

H. Gov. Peter Cata
Governor

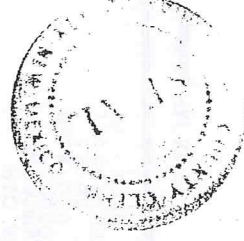
APPROVED:

DEPT. OF FINANCE & ADMINISTRATION

SECRETARY OF DFA

Dannette K. Bush 10/18/04
DATE

RIO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849
Book 529 Page 7849
13 of 14
10/04/2006 03:37:40 PM
BY DELORA





NORTH CENTRAL SOLID WASTE AUTHORITY
Serving Rio Arriba County, Espanola, Santa Clara Pueblo & San Juan Pueblo

September 30, 2004

Judith Amer, Legal Counsel
Department of Finance & Administration
Office of the Secretary
Bataan Memorial Bldg., Suite 180
Santa Fe, NM 87501

Dear Ms. Amer:

Approval of the JPA forming the North Central Solid Waste Authority is being sought retroactively. The reason for this is a clerical oversight.

All parties signed the JPA, and have been working together under the premises established by the JPA since its signing. The previous administrators of the Authority either did not know that DFA needed to approve the JPA, or mistakenly thought such approval had been acquired.

It is important to note that the Authority is only now becoming operational, and needing the ability to handle money, develop a budget, and acquire staff. To this time, the Authority has not taken any action, nor has it received any direct funding or spent any money; the Rio Arriba County Commission has acted as the Authority's fiscal agent.

The Authority is now seeking DFA approval of the JPA forming the agency.

If you have any questions or concerns, please call me at (505) 747-6100.

Sincerely,

Leonard Padilla
Chairman

GOOD CAUSE HAVING BEEN SHOWN, I HEREBY
GRANT RETROACTIVE APPROVAL TO: 11/17/04


Donnette K. Brink 12/8/04
CABINET SECRETARY
DEPT. OF FINANCE & ADMINISTRATION

RIO ARRIBA
J. FRED VIGIL, COUNTY CLERK
200607849
BOOK 529 Page 7849
14 OF 14
10/04/2006 03:37:40 PM
BY DELORA

P.O. Box 1230, Espanola, NM 87532

(505) 747-8459 FAX (505) 747-8464